

STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF FINANCIAL INSTITUTIONS

DEPT. OF FINANCIAL INSTITUTIONS,)
COMPLIANCE DIVISION,)

Petitioner,)

TDFI No.: 07-38-C

v.)

JOSEPH TODD FIELDS,)

Respondent.)

INITIAL ORDER

This matter came before the Commissioner of the Tennessee Department of Financial Institutions (hereinafter, "Commissioner") upon Motion of the Compliance Division of the Tennessee Department of Financial Institutions (hereinafter, "Petitioner"). The Commissioner is vested with jurisdiction to hear this case pursuant to Tenn. Code Ann. § 45-1-105 and the Tennessee Residential Lending, Brokerage and Servicing Act of 1988 ("Act"), as amended, at Tenn. Code Ann. §§ 45-13-101, *et seq.* This case was adjudicated according to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301, *et seq.*, and the Department of Financial Institution's Rules of Procedure for Contested Cases, Tenn. Comp. R. and Regs. 0180-6, *et seq.*

Joseph Todd Fields (hereinafter, "Respondent") failed to timely request a hearing on the charges raised in the Notice of Charges and no hearing was held. The Petitioner, by its Motion, has requested that the Commissioner deem the Petitioner's Requests for Admission admitted as a matter of law and issue an order granting the relief requested in the Notice of Charges. In its Notice of Charges, the Petitioner requests that the

Commissioner issue an Order barring the Respondent from any position of management or control of, or employment with, or from providing services to, any licensee or registrant or other person subject to the Commissioner's jurisdiction.

After consideration of the record, it is **DETERMINED** that the Petitioner's Requests for Admission **SHOULD** be admitted as a matter of law and that the relief requested in the Notice of Charges **SHOULD** be granted. Said decision is based on the Preliminary Rulings, Findings of Fact, and Conclusions of Law stated below.

I. RECORD

The record in this case consists of the following:

1. Petitioner's Notice of Opportunity for a Hearing and of the Rights of the Respondent
2. Petitioner's Notice of Charges
3. Petitioner's Requests for Admission
4. Petitioner's Motion to Have the Requests for Admission Deemed Admitted as a Matter of Law and for an Order Granting the Relief Requested in the Notice of Charges

II. PRELIMINARY RULINGS

Pursuant to Tenn. R. Civ. P. 36.01 and the applicable State Rule, Tenn. Comp. R. and Regs. 0180-6-18(1), because the Petitioner served the Respondent with Requests for Admission requesting the truth of relevant matters set forth therein, and because the Petitioner designated within the Requests for Admission a period of thirty (30) days for the Respondent to serve the Petitioner with a written answer or objection to each relevant matter set forth therein, and because the Respondent failed to serve the Petitioner with any such response within the time period so designated, the Requests for Admission are admitted as a matter of law.

III. FINDINGS OF FACT

1. The Respondent resides at 1411 W G St., Apt. 8, Elizabethton, Tennessee 37643.

2. The Respondent was vice-president of Advantage One Equity Services, Inc., an entity that was licensed by the Department from February 18, 2000 to December 31, 2002, but whose license was suspended by Emergency Order of then-Commissioner of the Department, Fred R. Lawson, on or about May 24, 2002, for failure to maintain a surety bond in the amount of twenty-five thousand dollars (\$25,000), as was required by law.

3. The Respondent was a principal owner and president of Advantage One Equity Services of America, Inc., an entity that was licensed by the Department from July 17, 2002 to December 31, 2003 under certain restrictions outlined in an Agreed Order made with the Department and issued on or about July 22, 2002.

4. On or about March 15, 2004, the Respondent entered into a plea agreement with the U.S. District Court, Eastern District of Tennessee ("Court"), criminal docket number 2:04-cr-00019-1, by which he plead guilty to one (1) class C felony count of violating 18 U.S.C. § 1343 by committing wire fraud against Decision One Mortgage Co., LLC of Charlotte, North Carolina.

5. On or about June 7, 2004, said plea agreement was accepted by the Court and the Respondent was sentenced to twelve (12) months and one (1) day imprisonment, three (3) years of supervised release, and was assessed fees and was ordered to pay restitution in the amount of \$113,219.77 to Decision One Mortgage Co., LLC.

6. The Respondent was released from prison on or about July 6, 2005, and is currently on supervised release until July 5, 2008. By Order of the Court, on or about September 5, 2005 the terms of the Respondent's release were modified to include participation in a program of testing and treatment for drug and/or alcohol abuse for such time as determined by his probation officer.

7. The Respondent's criminal act, referenced in paragraph four (4), above, is reasonably related to the qualifications, functions, or duties of a person engaged in the mortgage loan business, in that the crime shows that the Respondent does not possess the financial responsibility, experience, or character to warrant the belief that he would operate lawfully and within the purposes of the Act, as required by Tenn. Code Ann. § 45-13-105(a).

8. The Respondent was served with a "Notice of Opportunity for a Hearing and of the Rights of the Respondent" and a "Notice of Charges" (hereinafter, collectively referred to as the "Notices") in the above-captioned case on September 12, 2007, at the address referenced in paragraph one (1), above. The Notices provided notice to the Respondent of its right to contest the charges alleged in the Notice of Charges and to request a hearing within thirty (30) days of being served with the Notices.

9. The Respondent failed to request a hearing or to otherwise contest the allegations raised in the Notice of Charges within thirty (30) days of being served with the Notices.

10. The Respondent was served with "Requests for Admission" (hereinafter, "Requests") in the above-captioned case on October 15, 2007, which informed the

Respondent that it could admit, deny, or object in writing to the statements contained therein within thirty (30) days.

11. The Respondent failed to serve upon the Petitioner a written response or objection to the Requests within thirty (30) days of being served with the Requests.

12. The Petitioner, by its Notice of Charges, has requested that the Commissioner issue an order barring the Respondent from any position of management or control of, or employment with, or from providing services to, any licensee or registrant or other person subject to the Commissioner's jurisdiction.

IV. CONCLUSIONS OF LAW

13. Tenn. Code Ann. § 45-13-121 allows the Commissioner, after notice and opportunity for a hearing, to bar a person from any position of management or control of, or employment with, or from providing services to, any licensee or registrant or other person subject to the Commissioner's jurisdiction if, after July 1, 2001, that person was convicted of or pled guilty to, any crime that is reasonably related to the qualifications, functions, or duties of a person engaged in the mortgage loan business.

14. Regarding the qualifications of a person engaged in the mortgage loan business, the licensing statute for mortgage loan lenders, brokers, and servicers, Tenn. Code Ann. § 45-13-105(a), provides that an applicant must have sufficient financial responsibility, experience, and character so as to warrant the belief that the applicant will operate lawfully and within the purposes of the Act.

15. The Findings of Fact stated in Paragraphs one (1) through twelve (12), above, incorporated by reference herein, show by a preponderance of the evidence, that the Respondent does not have sufficient financial responsibility, experience, and

character, so as to warrant the belief that he would operate lawfully and within the purposes of the Act. Even after holding positions of management and/or control over at least two (2) mortgage companies licensed by the Department, Fields committed felony wire fraud against another mortgage company. Said criminal act demonstrates Fields' personal dishonesty and his willful disregard for the integrity of the mortgage business, and would warrant denial of any future application made under the Act.

16. The Findings of Fact stated in Paragraphs one (1) through twelve (12), above, incorporated by reference herein, also show by a preponderance of the evidence that the Respondent pled guilty to the criminal act at issue after July 1, 2001, and that he was provided prior notice and opportunity for a hearing to contest the allegations raised in the Notice of Charges. Therefore, in consideration of the preceding and that the Respondent's criminal act is reasonably related to the qualifications, functions, or duties of a person engaged in the mortgage loan business, pursuant to Tenn. Code Ann. § 45-13-121, the Commissioner **SHOULD** issue an Order barring the Respondent from any position of management or control of, or employment with, or from providing services to, any licensee or registrant or other person subject to the Commissioner's jurisdiction.

V. ORDER

IT IS THEREFORE **ORDERED, ADJUDGED AND DECREED** that the Respondent, Joseph Todd Fields, is barred from any position of management or control of, or employment with, or from providing services to, any licensee or registrant or other person subject to the Commissioner's jurisdiction.

This Order is an Initial Order that shall become a Final Order in accordance with Tenn. Code Ann. 4-5-318(f)(3) unless, within fifteen (15) days after entry of this Order,

the Respondent follows the appeal procedures outlined in Appendix A, which is attached to this Order.

This Initial Order entered and effective this 8 day of January, 2008.

Marsha P. Anderson
Commissioner of the TDFI, or
Designee Acting as Hearing Officer